IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 802 of 2005

WITH

CIVIL APPLICATION NO.937 of 2005

Parbhat B. Patel .. Appellant

versus

Municipal Corp. of Gr.Mumbai. .. Respondents

...

Ms.Sunita Poddar for the appellant.

Mr.R.A. Malandkar for the respondent Corporation.

CORAM : B.H. MARLAPALLE,J

DATED : 12th September 2005

P.C.:

1. Heard Ms.Sunita Poddar, the learned counsel for the appellant and Shri Malandkar for the respondent Corporation.

2. By the impugned order dated 5th August 2005, the prayer for ad-interim relief has been refused and Notice of Motion has been directed to be registered. The notice issued u/s.351 of the Mumbai Municipal Corporation Act 1888 against the plaintiff on 16th

June 2005 is in respect of the alleged unauthorised construction beyond the wall on the first floor and it is not the case of the Corporation that there is any unauthorised construction inside the flat. Pending motion is therefore required to be considered only for the projection alleged to be made beyond the wall of the flat. It is stated that the Notice of Motion is coming up before the trial Court on 4th October 2005. The Corporation should file its reply by the next date so that the Notice of Motion is heard and decided expeditiously.

3. The appeal is therefore disposed of with the above clarifications and with further directions to hear and decide the motion expeditiously.

4. Civil Application does not survive.

5. Status-quo as at present to be maintained in respect of the structure which is beyond the wall and the Notice of Motion be decided preferably by 30th November 2005.

B.H. MARLAPALLE, J